

## Remarks

### **1. Summary of the Office Action**

In the final office action, the Examiner maintained the rejections of claims 1, 9, and 18 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Pub. No. 2004/0047309 (Barnes), and the rejections of claims 4 and 10 under 35 U.S.C. § 103(a) as being allegedly obvious over Barnes in view of U.S. Patent No. 6,781,980 (Dajer).

Further, the Examiner allowed claims 11-13, and the Examiner objected to claims 2-3 as depending from a rejected base claim but indicated that claims 2-3 would be allowable if rewritten in independent form including the limitations of their base claim and any intervening claims.

### **2. Status of the Claims**

Pending in this application are claims 1-4, 9-13, and 18, of which claims 1, 9, 11, and 18 are independent and the remainder are dependent.

### **3. Response to Rejections**

For the reasons set forth in Applicant's last response, Applicant submits that the anticipation rejections of claims 1, 9, and 18 are improper and should be withdrawn, as Barnes does not teach all of the limitations of any of these claims as would be required to establish an anticipation rejection under M.P.E.P. § 2131.

At a minimum, Barnes fails to teach the combination of (i) receiving a digital signal that defines bearer data for each of a plurality of channels, and control information for each of the plurality of channels, (ii) parsing from the control information a power level and a modulation frequency, the power level being one of a plurality of possible power levels and the modulation frequency being one of a plurality of possible modulation frequencies, and (iii) based on the

power level and the modulation frequency, responsively generating an analog signal having a plurality of analog channels that defines the bearer data in the digital signal. Applicant requests the Examiner to reconsider the remarks set forth in the last response, which clearly explain the deficiency of Barnes.

In the final office action, the Examiner expressed disagreement with Applicant's position. However, the Examiner did not substantively rebut Applicant's position.

Most notably, the Examiner summarily concluded that Barnes' disclosure of having a baseband processor set a transmitted signal or power level suitable for each carrier and slot used and modulate the digital data onto an RF carrier frequency "*is the same* as parsing from the control information, a power level and a modulation frequency, the power level being one of a plurality of possible power levels and the modulation frequency being one of a plurality of possible modulation frequencies." *See* office action at page 9, line 19 – page 10, line 2 (emphasis changed). With all due respect, however, Applicant submits that the Examiner's summary conclusion is incorrect.

The mere acts of setting a transmitted signal or power level and modulating data onto a particular frequency is not the same as or even analogous to the function of "parsing from the control information, a power level and a modulation frequency, the power level being one of a plurality of possible power levels and the modulation frequency being one of a plurality of possible modulation frequencies." In fact, those acts do not constitute parsing anything from any control information, let alone "the control information."

Furthermore, the Examiner has not pointed to any disclosure in Barnes of "the" control information in the first place. In particular, the Examiner has not pointed to any teaching in Barnes of receiving a digital signal that defines both bearer data for each of a plurality of

channels *and control information for each of the plurality of channels*, as recited in Applicant's claims. Rather, in the "Response to Arguments" section, the Examiner asserted at best that Barnes teaches receiving a digital signal that defines bearer data for each of a plurality of channels, but the Examiner did not mention the claim element of receiving a digital signal that defines both bearer data for each of a plurality of channels and control information for each of the plurality of channels. Barnes fails to teach Applicant's claimed invention including this function. Consequently, the Examiner has clearly erred in rejecting the claims as being anticipated by Barnes.

Because Barnes fails to teach the combination of elements recited in any of claims 1, 9, and 18, Barnes does not anticipate these claims. Therefore, claims 1, 9, and 18 are allowable. Further, without conceding the Examiner's other assertions, Applicant submits that dependent claims 2-4 and 10 are allowable for at least the reason that they each depend from an allowable claim. Consequently, Applicant submits that the obviousness rejections of claims 4 and 10 are moot, and Applicant submits that claims 2-3 are allowable without the need to be rewritten in independent form.

#### **4. Comments on Reasons for Allowance**

In allowing claims 11-13, the Examiner again asserted that Barnes teaches the receiver and parser elements of independent claim 11. Applicant respectfully disagrees, as discussed in the last office action. Thus, Applicant submits that claims 11-13 are allowable for the additional reason that Barnes fails to disclose those elements.

**5. Conclusion**

In view of the foregoing, Applicant submits that, in addition to allowed claims 11-13, the remaining claims 1-4, 9-10, and 18 are allowable. Therefore, Applicant respectfully requests favorable reconsideration and allowance of all of the claims.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

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Dated: September 6, 2007

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